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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,064	09/16/2003	Zaki A. Khan	ES9121.006	2049
44093 7590 08/06/2008 ELEY LAW FIRM CO. 7870 OLENTANGY RIVER RD SUITE 311 COLUMBUS, OH 43235				
EXAMINER				
IDELL, JOSEPH T				
ART UNIT		PAPER NUMBER		
3636				
MAIL DATE		DELIVERY MODE		
08/06/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/663,064

Applicant(s)

KHAN ET AL.

Examiner

Joseph F. Edell

Art Unit

3636

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-15 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-15 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 22 May 2008 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, 7, 12, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,869,365 to Corduan.

Corduan discloses a foldable seat that includes all the limitations recited in claims 1, 2, 6, 7, 12, and 20. Corduan shows a seat having a seat cushion D (see Fig. 3) with forward, rearward, top, and bottom portions, a forward support leg pivotably E coupled to the bottom portion of the seat proximate the forward portion, and a seatback A with upper and lower portions wherein the seat cushion being pivotable about the

rearward portion, the lower portion of the seatback is proximate the rearward portion of the seat cushion, the forward support leg automatically folds into a stowed position proximate the bottom portion of the seat cushion when the seat cushion is pivoted upward, the forward support leg automatically unfolds into an extended position generally perpendicular to the seat cushion when the seat cushion is pivoted downwardly, and the seat cushion is upwardly pivotable to a generally vertical position proximate and facially adjacent the seatback.

With respect to claims 6, 7, and 20, the seat is capable of being anchored to a structural portion of a vehicle wherein the seat cushion is releasably retained in either a first generally horizontal position or a second generally vertical position by a latch 71,80 and the latch may be actuated by a lever 77 to release the latch to allow the seat cushion to be pivoted about the rearward portion.

With respect to claim 12, the seat cushion provides a visual indication when not in a retained condition by virtue of the lever 77 being rotated upwardly away from the latch.

Claims 1, 2, 6, 7, 12, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,963,509 to Tinsley.

Tinsley discloses a foldable seat that includes all the limitations recited in claims 1, 2, 6, 7, 12, and 20. Tinsley shows a seat having a seat cushion 6 (see Fig. 3) with forward, rearward, top, and bottom portions, a forward support leg pivotably 17 coupled to the bottom portion of the seat proximate the forward portion, and a seatback 1 with upper and lower portions wherein the seat cushion being pivotable about the rearward

portion, the lower portion of the seatback is proximate the rearward portion of the seat cushion, the forward support leg automatically folds into a stowed position proximate the bottom portion of the seat cushion when the seat cushion is pivoted upward, the forward support leg automatically unfolds into an extended position generally perpendicular to the seat cushion when the seat cushion is pivoted downwardly, and the seat cushion is upwardly pivotable to a generally vertical position proximate and facially adjacent the seatback.

With respect to claims 6, 7, and 20, the seat is capable of being anchored to a structural portion of a vehicle wherein the seat cushion is releasably retained in either a first generally horizontal position or a second generally vertical position by a latch 37 and the latch may be actuated by a lever 39 to release the latch to allow the seat cushion to be pivoted about the rearward portion.

With respect to claim 12, the seat cushion provides a visual indication when not in a retained condition by virtue of the lever 39 being rotated upwardly away from the latch.

Claims 1, 2, 6, 7, 12, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,088,644 to Erpelding et al.

Erpelding et al. disclose a foldable seat that includes all the limitations recited in claims 1, 2, 6, 7, 12 and 20. Erpelding et al. show a seat having a seat cushion 32 (see Fig. 1) with forward, rearward, top, and bottom portions, a forward support leg pivotably 16 coupled to the bottom portion of the seat proximate the forward portion, and a seatback 12,13 with upper and lower portions wherein the seat cushion being pivotable

about the rearward portion, the lower portion of the seatback is proximate the rearward portion of the seat cushion, the forward support leg automatically folds into a stowed position proximate the bottom portion of the seat cushion when the seat cushion is pivoted upward, the forward support leg automatically unfolds into an extended position generally perpendicular to the seat cushion when the seat cushion is pivoted downwardly, and the seat cushion is upwardly pivotable to a generally vertical position proximate and facially adjacent the seatback.

With respect to claims 6, 7, and 20, the seat is capable of being anchored to a structural portion of a vehicle wherein the seat cushion is releasably retained in either a first generally horizontal position or a second generally vertical position by a latch 56 and the latch may be actuated by a lever 53 to release the latch to allow the seat cushion to be pivoted about the rearward portion.

With respect to claim 12, the seat cushion provides a visual indication when not in a retained condition by virtue of the lever 53 being rotated upwardly away from the latch.

Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by JP Patent No. 61-75028 to Taoka.

Taoka discloses a foldable seat that includes all the limitations recited in claim 20. Taoka shows a seat having a seat cushion 5 (see Fig. 2) with forward, rearward, top, and bottom portions, a forward support leg pivotably 8 coupled to the bottom portion of the seat proximate the forward portion, and a seatback 7 with upper and lower portions wherein the seat cushion is releasably retained in either a first generally

horizontal position or a second generally vertical position by a latch 23, the latch may be actuated by a lever 22 to release the latch to allow the seat cushion to be pivoted about the rearward portion, the forward support leg adapted to contact the structural portion of the vehicle when the seat cushion is generally horizontal, the lower portion of the seatback is proximate the rearward portion of the seat cushion, the forward support leg automatically folds into a stowed position proximate the bottom portion of the seat cushion when the seat cushion is pivoted upward, and the forward support leg automatically unfolds into an extended position generally perpendicular to the seat cushion when the seat cushion is pivoted downwardly.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 155,107 to Richardson in view of U.S. Patent No. 5,826,942 to Sutton et al.

Richardson discloses a seat that is basically the same as that recited in claims 1-4, 8, and 9 except that the seat lacks a seat cushion, a pivotable seatback, and a headrest, as recited in the claims. See Figures 1 and 2 of Richardson for the teaching that the seat has a seat member *D* with forward, rearward, top, and bottom portions, a

forward support leg pivotably *g* coupled to the bottom portion of the seat proximate the forward portion, and a seatback *B* with upper and lower portions wherein the seat cushion being pivotable about the rearward portion, the lower portion of the seatback is proximate the rearward portion of the seat cushion, the forward support leg automatically folds into a stowed position proximate the bottom portion of the seat cushion when the seat cushion is pivoted upward, the forward support leg automatically unfolds into an extended position generally perpendicular to the seat cushion when the seat cushion is pivoted downwardly, and the seat cushion is upwardly pivotable to a generally vertical position proximate and facially adjacent the seatback.

Balk shows a seat similar to that of Richardson wherein the seat has a seat cushion 12 (see Fig. 1), a seatback 14 releasably retained, a headrest coupled to the upper portion of the seatback, a second latch (see column 3, lines 52-62), and a second lever 62 actuating the second latch such that the seatback is downwardly pivotable to a generally horizontal position proximate and facially adjacent the seat cushion. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat of Balk to include a headrest coupled to the upper portion of the seatback wherein the seat member is a seat cushion, the seatback is releasably retained in at least one position by a second latch and a second lever actuates the second latch when the seatback is to be pivoted, the seatback is downwardly pivotable to a generally horizontal position proximate and facially adjacent the seat cushion, and the seatback is releasably retained in either a first generally vertical position or a second generally horizontal position, such as the seat disclosed by

Balk. One would have been motivated to make such a modification in view of the suggestion in Balk that the lever of the seat cushion's latch and the seatback's latch configuration are well known in the art as a way to releasably retain seatbacks, in view of the knowledge generally available to one skilled in the art that a seat cushion on a seat provides a comfortable sitting surface for a use, and in view of the knowledge generally available to one skilled in the art that headrests coupled to the upper portion of seatbacks provide a rearward support for a user's head.

Claims 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson in view of Balk as applied to claims 1-4, 8, and 9 above, and further in view of U.S. Patent No. 5,826,942 to Sutton et al.

Richardson discloses a seat that is basically the same as that recited in claims 10-15 except that the headrest lacks pivot movement and a third latch, as recited in the claims. Sutton et al. show a seat similar to that of Richardson wherein the seat has a seat cushion 14 (see Fig. 1), a seatback 16 pivotable to a horizontal position, a headrest 24 pivotable coupled to the upper portion of the seatback, a latch 88 (see Fig. 3) that may be actuated by lever 90 to releasably retain the headrest in a first extended position or a second stowed position, the headrest is biased to a stowed position via gravity and the spring 92 biasing the latch member 84 against flange 64 upon actuation, and the headrest is linked to the seatback via linkage such that the headrest advances toward a stowed position as the seatback is downwardly pivoted and the headrest advances toward an extended position as the seatback is upwardly pivoted. Therefore, it would have been obvious to one having ordinary skill in the art at the time the

invention was made to modify the seat of Richardson such that the headrest is releasably retained in at least one position by a third latch, the third latch may be actuated by a third lever to release the third latch allowing the headrest to be pivoted, the headrest is releasably retained in either a first extended position aligned with the seatback or a second stowed position perpendicular to the seatback, the headrest is biased toward the stowed position, and the headrest is linked to the seatback such that the headrest pivotably advances toward a stowed position as the seatback is downwardly pivoted and the headrest pivotably advances toward an extended position as the seatback is upwardly pivoted wherein a passenger would be deterred from utilizing the seat when the headrest is not in the extended position, and the seatback and headrest provide a visual indication when not in a retained position by virtue of the seatback being horizontally disposed and the headrest being rotated to the stowed position, such as the seat disclosed in Sutton et al. One would have been motivated to make such a modification in view of the suggestion in Sutton et al. that the horizontal seatback provides a stored position, that the headrest configuration provides an independently adjustable headrest that is controllably adjustable between an upright use position and a flat stowed position for facilitating the folding of the seatback, and that the headrest and seatback being linked provides releasing the seatback to move to the stored position upon movement of the headrest's latch.

Response to Amendment

The declaration filed on 22 May 2008 under 37 CFR 1.131 is sufficient to overcome the Soditch et al. reference.

Response to Arguments

Applicant's arguments with respect to claims 3, 4, 10-15, and 20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph F Edell/
Primary Examiner, Art Unit 3636
August 5, 2008